



Office of the Attorney General  
Washington, D. C. 20530

October 10, 1995

MEMORANDUM

TO: All United States Attorneys  
All United States Trustees  
Assistant Attorney General, Criminal Division  
Assistant Attorney General, Civil Division  
Assistant Attorney General, Environment and  
Natural Resources Division  
Assistant Attorney General, Tax Division  
Director, Federal Bureau of Investigation  
Director, Executive Office for United States Attorneys  
Director, Executive Office for United States Trustees

FROM: THE ATTORNEY GENERAL *[Signature]*

SUBJECT: Bankruptcy Fraud

In 1992, the Department of Justice made the aggressive prosecution of bankruptcy fraud a high priority of the Department of Justice. It is time to place a renewed emphasis on the Department's efforts in this area.

Several hundred thousand bankruptcy cases are filed each year by individuals and companies in desperate financial straits. As of March 31, 1995, there were over one million active cases pending in bankruptcy courts around the country involving an estimated \$7 billion in assets. The potential for fraud and abuse in a system involving such enormous amounts of money and complex financial transactions is great. Only swift, sure enforcement of the bankruptcy fraud statutes can protect the nation's Federal bankruptcy system for the benefit of those who truly need relief and, more importantly, deter those who might be tempted to use bankruptcy as a means to deceive and defraud.

It is imperative that the integrity of the bankruptcy system, an integral component of our national economy, be preserved and enhanced. Debtors who conceal assets, trustees who administer estates to their own improper advantage and "professionals" who run "bankruptcy mills" and other schemes involving the bankruptcy laws all undermine our faith in the integrity of the system. We need to ensure that the message gets out to those who would engage in such conduct that we will not tolerate it and that they will be prosecuted. We also need to ensure that those who find themselves as either willing or

unwilling participants in the bankruptcy system are confident that the system will work as promised.

Accordingly, I want to take this opportunity to announce a bankruptcy fraud program being coordinated jointly by the Attorney General's Advisory Committee of United States Attorneys and the Executive Office for United States Trustees (EOUST). The effort has several components:

- Training: I have asked the Executive Office for United States Attorneys (EOUSA) and EOUST to work with the Office of Legal Education (OLE) to develop joint training programs on bankruptcy fraud detection, investigation and prosecution for Assistant United States Attorneys (AUSAs), Assistant United States Trustees (AUSTs) and Federal Bureau of Investigation agents from the same areas. By training all the participants together, we will be promoting the use of a team approach in combating fraud. In addition, I have asked the OLE to include a segment on bankruptcy fraud in all courses dealing with white collar crime, advanced trial advocacy or bankruptcy. Bankruptcy fraud will also be put on the agendas at meetings of civil and criminal AUSA chiefs to raise awareness of the issue.
- Team Approach: Effective law enforcement in the area of bankruptcy fraud, as in all areas, requires the coordination of all available resources. Accordingly, I am directing the Federal Bureau of Investigation, each United States Attorney and each United States Trustee to work together and develop a coordinated response to this problem including meeting regularly to discuss bankruptcy fraud referrals, investigations and prosecution efforts. In addition, we should work with the Internal Revenue Service, Postal Inspectors, the Secret Service, and the Inspectors General of the various agencies and Departments to enhance government-wide coordination.
- Prosecutions: Often times, individuals involved in bankruptcy fraud are not prosecuted either because the schemes are too complex to warrant the resources needed to unravel them or because the dollar amounts involved do not meet the prosecution guidelines of the particular district. Because bankruptcy fraud directly impacts a governmental process, I ask you to evaluate each case on its own merits rather than follow a blanket declination policy based solely on dollar amounts. It may be warranted in some circumstances to batch cases that individually would not warrant prosecution or to relax the dollar limits for other cases. Furthermore, cases involving violations of public integrity by individuals who have access to bankruptcy funds by virtue of an official position, whether a debtor in possession, a professional appointed or approved by the

court, or a bankruptcy trustee, should be vigorously prosecuted.

- Bankruptcy Fraud Kick-Off Day: I have also directed the EOUSA and EOUST to coordinate a National Bankruptcy Fraud Kick-Off Day on which as many districts as possible would either bring or announce bankruptcy fraud charges. Those U.S. Attorneys who are about to bring indictments up to six-weeks prior to the Kick-Off Day are asked to postpone the indictment, or at least its announcement, until that day. It is understood that all United States Attorneys' offices may not be in a position to participate at that time. For those offices that are able to do so, however, simple coordination of the announcements of bankruptcy fraud indictments and plea agreements will demonstrate the Department's commitment to reducing fraud and ensuring the integrity of the system, and will send a strong message to those who might consider engaging in such activities that they do so at great risk. This will demonstrate that these cases are about real people, and increase bench and bar support for our efforts. It is anticipated that this day will occur in early 1996. You will receive additional information on this effort in the next few weeks.

Bankruptcy is a public process, and we must aggressively pursue those who would use the system to avoid their valid legal obligations, delay or evade their Federal and State tax obligations, and otherwise distort the process which offers deserving debtors the opportunity to seek a fresh start. We must not allow undeserving participants to use the process improperly.

I am counting on each of you to act aggressively in responding to this continuing problem.